

Remarks/Arguments

Claims 21-27 and 32, as amended, are pending in the application for the Examiner's review and consideration.

Claims 14-20 and 28-31 have been canceled without prejudice. Applicants expressly reserve the right to pursue the subject matter of these claims in a subsequent continuation, divisional, or continuation-in-part application.

Claims 21-24 and 32, as amended, correspond to methods of treatment with compositions similar to those recited in claims 1-4 and 6 of U.S. patent No. 6,693,129, issued from U.S. application No. 09/970,609 ("609 application"). This application is a divisional of the '609 application. See Preliminary Amendment dated July 28, 2004.

Claims 25-27 have been amended to correct the dependencies. No new matter has been added to these claims.

Claims 14-20 have been rejected under 35 U.S.C. § 103(a) as allegedly obvious over U.S. patent No. 5,650,418 to Rath, et al. ("418 patent") in view of EP 0 891771 to Rath, et al. ("EP '771"). This rejection has been rendered moot by the cancellation of these claims.

Claims 21-32 have been rejected under 35 U.S.C. § 103(a) as allegedly obvious over the '418 patent and EP '771 in view of U.S. patent No. 6,048,846 to Cochran, et al. ("846 patent"), Product Information Brochure for Life Extension Mix Multivitamin (1997) ("Brochure"), and U.S. patent No. 5,332,579 to Umbdenstock ("579 patent"). This rejection has been rendered moot as to claims 28-31 by the cancellation of those claims. As to the remaining claims, Applicants respectfully traverse.

Claims 21-27 and 32, as amended, recite methods of lowering plasma concentration of a lipoprotein in a mammal, comprising administering to the mammal a composition of biochemical substances comprising ascorbic acid, ascorbyl palmitate, beta-, gamma-, delta-tocopherol-mix, beta-carotene, biotin, calcium ascorbate, calcium glycinate, carotenoid mix: (2-Lasotene, Latein, Zea-Cryptoxanthin), cholecalciferol, chromium glycinate, citrus bioflavonoids, coenzyme Q10, copper glycinate, cyanocobalamin, d-alpha-tocopherol, di-calcium pantothenate, dicalcium phosphate, folic acid, inositol, L-arginine, L-carnitine, L-

cysteine, L-lysine, L-proline, L-selenomethionine, magnesium ascorbate, magnesium glycinate, manganese chelate, molybdenum glycinate, niacin, niacinamide, potassium chelate, pycnogenol, pyridoxine, riboflavin, thiamine, and zinc glycinate, wherein the composition is in therapeutically effective amounts to lower plasma concentration of a lipoprotein in a mammal.

The '418 patent discloses a composition of ascorbate, lysine, nicotinic acid, tocopherol, and carotene for use in inhibiting the binding of lipoprotein(a) components to the arterial wall. *See* '418 patent, col. 4, ll. 14-45. The '418 patent does not disclose the composition recited in the present claims, or a method of lowering plasma concentration of a lipoprotein. In fact, one of skill in the art would recognize that the composition of the '418 patent would increase the plasma concentration of lipoprotein(a) by stimulating its release from arterial walls. *See id.* at col. 3, ll. 19-23. Thus, the '418 patent would not teach or suggest the claimed methods to the skilled artisan.

EP '771 discloses a composition of lysine, ascorbate, proline, N-acetylglucosamine, and Vitamin D for use in inhibiting the binding of lipoprotein(a) components to the arterial wall. *See* EP '771, p. 5, ll. 5-50. Similar to the '418 patent, EP '771 likewise does not teach or suggest the composition recited in the present claims, or a method of lowering plasma concentration of a lipoprotein. By their silence, the '418 patent and EP '771, either alone or in combination, could not motivate one of skill in the art to develop the claimed methods with a reasonable expectation of success.

None of the secondary references cited by the Office can remedy the deficiencies of the '418 patent and EP '771. The '846 patent discloses a nutritional composition intended to maintain the health of the human body containing at least one hormone, at least one amino acid, at least one enzyme and/or vitamin, and at least one mineral. *See* '846 patent, col. 1, l. 57 to col. 2, l. 2. The Brochure discloses the "Life Extension Mix" dietary supplement for maintaining health, which contains vegetable, fruit, and herbal extracts, amino acids, vitamins, minerals, and antioxidants. The '579 patent discloses a nutritional supplement intended to assist a person in recovering from an addiction, such as to drugs or alcohol. *See* '579 patent, col. 1, ll. 9-12. None of these references teach or suggest that the disclosed compositions can be effective in lowering the plasma concentration of a lipoprotein. Thus,

the skilled artisan would not have been motivated to combine their teachings to develop the claimed methods with any reasonable expectation of success.

Based on the foregoing reasons, the rejection of claims 21-32 under 35 U.S.C. § 103(a) as allegedly obvious over the '418 patent and EP '771 in view of the '846 patent, the Brochure, and the '579 patent cannot stand and should be withdrawn.

Conclusion

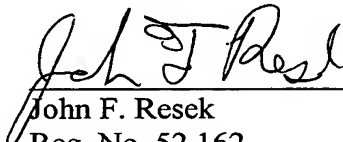
In view of the foregoing amendments and arguments, it is believed that the application is in condition for allowance, early notice of which would be appreciated. Should any outstanding issues remain, the Examiner is invited to telephone the undersigned at the telephone number indicated below to discuss them. No fee is believed to be due for the submission of this response. Should any fees be required, please charge such fees to Kenyon & Kenyon LLP deposit account number 11-0600.

Respectfully submitted,

KENYON & KENYON LLP

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By:


John F. Resek
Reg. No. 52,162

KENYON & KENYON LLP
One Broadway
New York, NY 10004
Tel.: (212) 425-7200
Fax: (212) 425-5288